

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ALLAH BURMAN, #97337-079	:	
Petitioner	:	
v.	:	CIVIL ACTION NO. L-11-1478
	:	CRIMINAL NO. L-01-0115
UNITED STATES OF AMERICA	:	
Respondent	:	

**MEMORANDUM**

Pending is Allah Akbar Burman's ("Burman") Motion filed pro se to vacate judgment. ECF No. 585. The Motion will be reviewed as filed pursuant to 28 U.S.C. § 2255 and dismissed without prejudice for lack of jurisdiction.

On April 15, 2008, Burman filed a Motion to Vacate pursuant to 28 U.S.C. § 2255, which was denied on July 29, 2009. See Burman v. United States, Civil Action No. L-08-941 (D. Md.). A subsequently filed § 2255 Motion was dismissed without prejudice for lack of jurisdiction on May 20, 2011. ECF Nos. 581 and 582. The instant § 2255 motion is, therefore, successive under these facts.

Second or successive motions under § 2255 may not be filed absent leave to do so from the Court of Appeals. See 28 U.S.C. §§ 2244 (b) (3) (A) & 2255; In re Avery W. Vial, 115 F.3d 1192, 1197-98 (4th Cir. 1997) (en banc). Since Burman does not indicate whether he has complied with the procedural requirements for a second or successive § 2255 motion, it will be dismissed without prejudice for lack of jurisdiction. Additionally, Burman's self-styled "Motion to Discharge-Caveat" which was filed with his successive §2255 petition will be denied.

Pursuant to Rule 11(a) of the “Rules Governing Proceedings Under 28 U.S.C. § 2255,” this Court is required to issue or deny a Certificate of Appealability (COA) when it enters a final order adverse to the petitioner. A COA is a “jurisdictional prerequisite” to an appeal from the court's earlier order, see United States v. Hadden, 475 F.3d 652, 659 (4th Cir. 2007), which may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c) (2). Burman does not satisfy this standard and a COA shall be denied. A separate Order follows.

June 7, 2011

/s/

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Benson Everett Legg  
United States District Judge